THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 2969 of 1998

DATED:04-08-2005

Between:

The Depot Manager, A.P.S.R.T.C Bus Depot,
Karimnagar.

..... PETITIONER

AND

1 K.Karuna Sagar Rao, S/o. Jalapathi Rao,
Narsingapur Post, Boinpally Mandal(Via),
Karimnagar District.
2 The Labour Court, Rep.by it's Presiding Officer,
Godavarikhani.

.....RESPONDENTS

THE HONOURABLE SRI JUSTICE C.V.RAMULU

W.P.NO.2969 OF 1998

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ORDER:

This writ petition is filed by the Depot Manager, APSRTC Bus Depot, Karimnagar (Management), being aggrieved by the Award passed by the Labour Court at Godavarikhani in I.D.No.623 of 1989 dated 5.9.1989, wherein the petition filed by the workman under Section 2 A (2) of the Industrial Disputes Act was answered in his favour granting relief of reinstatement with continuity of service and 50% of the back wages.

It is the case of the petitioner management that the first respondent was appointed as conductor w.e.f. 30.06.1985. Though he was disengaged, in the meanwhile, he was reengaged on 17.9.1985. During the short span of three years of service, he had committed several misconducts and he was imposed with several punishments, such as, he was censured six times, warned twice and increments were deferred for five times. While so the first respondent while conducting bus A A Z 2223 on the route Karimnagar to Mustabad, a check was exercised at stage No.18/17 on 10.10.1988 and it was detected that:

1) violated the rule “issue and start.”

2. failed to collect fare and issue tickets to 12 passengers who boarded the bus at Venkatraopally and bound for Musapuram, ex-stages 18/17 to 18/17.

Basing on the report of the checking officials, a charge sheet dated 21.10.1988 was issued framing the above charges. The explanation submitted by the petitioner was not satisfactory, therefore, a detailed domestic enquiry was conducted and the enquiry officer submitted report holding the petitioner guilty of the charges. On the basis of the enquiry officer’s report, the petitioner removed respondent No.1 from service. Aggrieved by the same, he field an appeal and the same was also dismissed on 28.4.1989 confirming the order passed by the petitioner herein. However, respondent No.1 approached the Labour Court and raised a dispute under Section 2 A (2) of the Industrial Disputes Act. The same was taken on file as

I.D.No.623 of 1989. The Labour Court without properly appreciating the evidence placed before it erroneously came to the conclusion that distance between the place of boarding and place of destination was being short the misconduct cannot be taken seriously and therefore the punishment is disproportionate to that of misconduct and denial of 50% of back wages would be sufficient punishment for the irregularities committed by the petitioner. The same is arbitrary and illegal and liable to be set-aside.

A detailed counter affidavit has been filed by respondent No.1-workman denying the allegations made by the petitioner-management and supporting the findings of the labour Court and further stating that the award passed by the Labour Court is just and proper and does not call for interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submission made by the learned counsel on either side and perused the award passed by the labour court and other material made available on record.

At the outset, I am of the opinion that the Labour Court has not committed any error in coming to the conclusion that the removal of the respondent No.1 from the service is not justified and also awarding 50% of the back wages with continuity of service and attendant benefits.

As noticed above, the charge itself is very trivial. It is not the case that respondent No.1-workman had collected the fare and failed to issue tickets. This is a case of “failed to collect the fare and failed to issue tickets” to 12 passengers. Admittedly the passengers boarded at stage No.18 and bound to stage No.18/17 i.e. in between stage No. 18 and 17 i.e.Musapuram. In the spot explanation, the workman stated that those 12 passengers stood across the road and the bus was stopped forcibly and they wanted to go Nacharam and stated that they would pay Re.1-00 each. Respondent no.1 informed them that there is no such stage of Nacharam. There was some argument. In the meanwhile, a check took place at Konaraopally. Neither the passenger paid the charges to the conductor nor he had issued the tickets. This statement of the passengers was recorded in the presence of the respondent. Though the enquiry officer accepted that the check took place at short distance from the place of boarding found respondent No.1 guilty of the charges. Therefore, labour Court came to the conclusion that since the check had taken place at a short

distance i.e within a furlong from the place of boarding, the conductor could not issue tickets. Therefore, it had held that the removal of the workman from the service is not justified. I am in full agreement with the findings of the Labour Court. In a case like this, there is every possibility that the passengers would pick up argument with respondent No.1 as explained by him and since the bus could not pass one furlong, the check had taken place. Therefore, the charges and irregularities proved do not warrant removal of the workman from the service. Thus, the findings of the labour court that the removal of the workman from the service is not justified and for the irregularities committed by the workman, denial of 50% of back wages is sufficient cannot be said to be incorrect. The Labour Court has not committed any irregularity in coming to such conclusion and the writ petition is devoid of merit and is liable to be dismissed.

The writ petition is accordingly dismissed. No order as to costs.

C.V.RAMULU,J

04-08-2005

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